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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,757	05/26/2006	Horst Wild	4954PCT	8720
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EXAMINER				
YOUNG, EDWIN				
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3681				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/580,757

Applicant(s)

WILD ET AL.

Examiner

EDWIN A. YOUNG

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 13-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4 and 13-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date 5/26/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This is the first action on the merits for application 10/580,757. The preliminary amendment, filed 5/26/2006, cancelled claims 5-12 and added new claims 13-20. Claims 1-4 and 13-20 are currently pending in this application.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/EP04/13739, filed on 12/03/2004.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/26/2006 has been considered by the examiner.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the characteristic line and field of claim 13, the software and control device of claim 19, and the vehicle of claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because of the following informalities:

Page 1, line 4, "to a an" should be changed to - -to an- -.

Page 1, lines 33-34, the reference to claim 1 should be removed, since references to specific claim numbers should not be included in the specification.

Page 2, line 32, "revolution the" should be changed to - -the revolution- -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-16 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 13, the specification does not provide an adequate description of the limitations "fixed as a characteristic line or characteristic field subject to further values." It is unclear what these limitations are referring to.

Regarding claim 19, the specification does not provide an adequate description of the limitation "upgraded by an update of the software in a control device". It appears applicant is attempting to claim a future invention, i.e. "an update".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 and 13-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the revolution speed" in line 5. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear what revolution speed application is referring to.

Claim 4 recites the limitation "the acceleration pedal" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. Claim 4, "the acceleration pedal" should be changed to - -an acceleration pedal- -.

Claim 14 recites the limitation "the maximum speed" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. Claim 4, "the maximum speed" should be changed to - -a maximum speed- -.

Regarding claim 14, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 17 recites the limitation "the selected driving program" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim. Claim 17, "the selected driving program" should be changed to - a selected driving program- .

Claim 18 recites the limitation "the driving characteristics" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear what "driving characteristics" refers to.

Claim 19 recites the limitation "the software" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 19, "the software" should be changed to - software- .

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. Applicant appears to claim a future invention, i.e. "an update". Since no description of the update has been provided, no utility can be ascertained from the disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by NOBUMOTO (US 5,947,861).

Regarding claim 1 as best understood, NOBUMOTO discloses an automatic gearbox, for a motor vehicle, with infinitely-variable ratio, which may be operated in a constant speed mode, or an acceleration mode, characterized in that a revolution speed in the acceleration mode can be increased or reduced in steps (see ABSTRACT; Figs. 1, 3 and 5-8; column 1, line 64 through column 2, line 45; column 4, lines 46-51 and column 5, lines 37-45).

Regarding claim 2 as best understood, NOBUMOTO discloses the revolution speed increase during an acceleration phase is at least in sections independent from the ratio (see Figs. 5-8 and column 1, line 64 through column 2, line 45; column 4, lines 46-51 and column 5, lines 37-45).

Regarding claim 3 as best understood, NOBUMOTO discloses the revolution speed during an acceleration phase can be increased with approximately constant ratio (see Figs. 5-8 and column 1, line 64 through column 2, line 45; column 4, lines 46-51 and column 5, lines 37-45).

Regarding claim 4 as best understood, NOBUMOTO discloses after an acceleration phase subject to the position of an acceleration pedal a further stepped revolution speed increase or a stepped revolution speed reduction can be adjusted (see Figs. 5-8 and column 1, line 64 through column 2, line 45; column 4, lines 46-51 and column 5, lines 37-45).

Regarding claim 13 as best understood, NOBUMOTO discloses the regulation steps for the revolution speed increase or reduction are fixed as a characteristic line or characteristic field subject to further values (see Figs. 5-8).

Regarding claim 14 as best understood, NOBUMOTO discloses in the acceleration mode as far as to achieving a maximum speed five to ten regulating steps are provided (see Fig. 7).

Regarding claim 15 as best understood, NOBUMOTO discloses for the revolution speed increase and the revolution speed reduction separate regulating steps are determined respectively (see Figs. 5-7).

Regarding claim 16 as best understood, NOBUMOTO discloses a minimum and a maximum revolution speed are associated with each regulating step and that when falling below or exceeding the minimum and maximum revolution speed a stepped revolution speed change can be triggered (see Figs. 5-7).

Regarding claim 17 as best understood, NOBUMOTO discloses the stepped revolution speed change in the acceleration mode can be activated subject to a selected driving program (see column 5, lines 37-45).

Regarding claim 18 as best understood, NOBUMOTO discloses the stepped revolution speed change in the acceleration mode can be activated subject to driving characteristics (see column 5, lines 37-45).

Regarding claim 19 as best understood, NOBUMOTO discloses the stepped revolution speed change can be upgraded by an update of software in a control device (see Fig. 3).

Regarding claim 20 as best understood, NOBUMOTO discloses a vehicle comprising an automatic gearbox according to claim 1 (see Fig. 1 and column 1, lines 9-14).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

GOI et al. (US 2001/0003108 A1) discloses a CVT control system (see ABSTRACT).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWIN A. YOUNG whose telephone number is (571)272-4781. The examiner can normally be reached on M-TH 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. A. Y./
Examiner, Art Unit 3681

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